

**LOCAL CIVIL RULES OF PRACTICE
FOR THE COURTS**

OF THE 52nd JUDICIAL CIRCUIT

FLOYD COUNTY, INDIANA

Effective: January 20, 2004

**ORDER ADOPTING LOCAL CIVIL RULES OF PRACTICE FOR
THE CIRCUIT, SUPERIOR AND COUNTY COURTS, 52nd
JUDICIAL CIRCUIT, FLOYD COUNTY, INDIANA**

**PURSUANT TO TRIAL RULE 81 OF THE INDIANA RULES OF TRIAL
PROCEDURE IT IS HEREBY ORDERED THAT THE FOLLOWING LOCAL CIVIL
RULES OF PRACTICE IN THE CIRCUIT, SUPERIOR AND COUNTY COURTS OF
THE 52nd JUDICIAL CIRCUIT, FLOYD COUNTY, INDIANA, BE AND THE SAME
ARE HEREBY ADOPTED, EFFECTIVE January 20, 2004.**

SO ORDERED THIS ____ DAY OF January, 2004.

J. TERRENCE CODY; JUDGE, FLOYD CIRCUIT COURT

RICHARD G. STRIEGEL; JUDGE, FLOYD SUPERIOR COURT

GLENN G. HANCOCK; JUDGE, FLOYD COUNTY COURT

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RULE 1 APPLICABILITY OF RULES

A. SCOPE. The following local rules of practice and procedure shall apply to cases filed in the Circuit, Superior and County Courts of Floyd County, Indiana, but shall not apply to criminal cases or cases on the Small Claims Docket unless otherwise indicated.

B. EFFECTIVE DATE. These local rules shall be effective January 20, 2004, and shall supersede such rules heretofore enacted by said Courts.

C. CITATION. These rules may be cited as Local Rule _____. The Indiana Rules of Trial Procedure are hereinafter referred to as Trial Rule _____.

D. PURPOSE. These rules are promulgated pursuant to Trial Rule 81 of the Indiana Rules of Trial Procedure and are intended to supplement the Indiana Rules of Trial Procedure.

RULE 2 WITHDRAWAL OF APPEARANCE

A. WITHDRAWAL OF APPEARANCE. Excepting appearances in estates and guardianships, an attorney desiring to withdraw his appearance in any other proceeding shall file a written motion requesting leave to do so accompanied by a notice of hearing or proof satisfactory to the Court that at least ten [10] days prior written notice has been given to the client and to all other parties of record in advance of the withdrawal date, which date shall be set forth in the written notice. The motion must contain the address and phone number of the client.

B. WITHDRAWAL IN ESTATE AND GUARDIANSHIP CASES. An attorney desiring to withdraw his appearance in an estate or guardianship shall file a written motion requesting leave to do so accompanied by a notice of hearing which shall be served at least ten [10] days prior to the hearing upon the personal representative or guardian directing said person to appear at the hearing.

C. WAIVER OF RULE. A motion for leave to withdraw an appearance accompanied by a written appearance of successor counsel and, excepting appearances in estate or guardianship matters, a motion to withdraw an appearance accompanied by a written consent of the client shall constitute a waiver of the requirements of this local rule.

RULE 3 DUTIES OF ATTORNEYS PREPARATION OF ENTRIES

A. STATUS OF PROCEEDINGS. Each attorney appearing of record and each party to a proceeding shall at all times keep themselves informed of the status of the proceeding and shall

be particularly bound by hearing dates orally set by the Court from the bench in their presence.

B. PREPARATION OF ENTRY. When opposing counsel has appeared in a proceeding, the attorney who has agreed to prepare an entry as requested by the Court shall place on the last page of the entry appropriate signature lines indicating "prepared by" and "reviewed by" and shall submit the entry to opposing counsel for examination. Opposing counsel shall promptly examine the entry when submitted, shall sign the entry, and shall submit the entry to the Court within five [5] days of receiving same.

C. FAILURE TO SUBMIT ENTRY. If opposing counsel shall fail or refuse to submit the entry without advising the Court as to objections thereto within five [5] working days of receiving the same, the preparing attorney shall submit the entry to the Court advising the Court by letter of opposing counsel's failure or refusal and the Court shall accept the entry without opposing counsel's signature.

D. FAILURE TO PREPARE ENTRY. If an attorney agrees or is ordered to prepare an entry and then fails to do so within fifteen [15] working days of the Court's request, opposing counsel may prepare the entry and submit same to the Court advising the Court by letter of the efforts made to gain preparation of the entry. Failure of counsel to prepare an entry as agreed or as ordered may subject counsel to sanctions including the assessment of reasonable attorney fees for counsel who prepared the entry.

RULE 4 PAYMENT OF FEES

A. INITIAL FEES. Unless the Court has previously entered a written Order waiving the pre-payment of the filing fee in whole or in part, all fees associated with the filing of a case shall be prepaid to the Clerk when the case is filed.

B. TRANSFER FEES. All fees and costs associated with the transfer of a case to another county or transfer of a case from the small claims docket to the civil plenary docket shall be paid within twenty [20] days of the Order directing transfer and the failure to pay such costs shall result in the rescinding of the Order directing transfer and jurisdiction of the case shall remain with the Court, or the case shall be transferred back to the small claims docket as applicable, unless the Court has entered a written order waiving the pre-payment of the fee in whole or in part.

RULE 5 PROOF OF SERVICE

A. TRIAL RULE 5 REQUIREMENTS. Proof of service of pleadings or papers required to be served by Trial Rule 5 may be made either by:

[1] a certificate of service signed by an attorney of record which certificate shall identify by name and address the person or persons to whom service is directed; or

[2] an acknowledgment of service signed by the party served or the attorney of record if such party is represented by an attorney.

B. VERIFYING SERVICE OF PROCESS. It is the responsibility of counsel to verify service of process. Court personnel shall not be required to review case files to determine if a party has acquired service of process. Counsel may access the Chronological Case Summary at the City-County Building or online to determine if service of process has occurred.

RULE 6

FORM AND STYLE OF PLEADINGS

FILING OF PLEADINGS

A. SIGNATURE REQUIRED. Any pleading, motion, brief or paper not signed by an attorney admitted to practice or a party who is acting pro se, shall not be accepted for filing, or, if inadvertently accepted for filing, shall upon discovery be stricken from the record by the Court upon its own motion.

B. PAPER SIZE. Pursuant to Administrative Rule 11, all pleadings, motions, entries, orders, judgments and other papers shall be filed on letter size [8 ½ x 11] paper.

C. FLAT FILING. The files of the Clerk of the Court shall be kept under the flat filing system. All pleadings presented for filing with the Clerk or the Court shall be flat and unfolded.

D. ORDERS AND ENTRIES. Except as required by Local Rule 3, all proposed orders and entries shall reflect the name of the preparer under the indication "prepared by", shall be submitted in sufficient number for each person entitled to service and shall contain a distribution list identifying by name and address each person entitled to service. The preparer shall provide sufficient pre-stamped pre-addressed envelopes to the court for mailing of the orders or entries.

RULE 7

PRE-TRIAL CONFERENCES

ASSIGNMENT OF CASES FOR TRIAL

A. COURT CALENDAR. A calendar of cases assigned for bench trial or jury trial shall be kept by the Court and the Court Reporter shall enter on the calendar at the direction of the Court, the style, cause number, and the time and date the trial is assigned to commence.

B. REQUIRED PRE-TRIAL CONFERENCE. No case shall be assigned for jury trial without the Court having conducted a pre-trial conference thereon and any party or attorney of record desirous of acquiring a jury trial shall first file a motion requesting a pre-trial conference accompanied by a proposed order.

C. OTHER PRE-TRIAL CONFERENCES. The Court, in its discretion, may require a pre-trial conference on certain cases to be heard at bench trial and the Court shall, sua sponte, set such cases for conference. Any party or attorney of record desirous of having a pre-trial conference for such cases may file a motion requesting same accompanied by a proposed order.

D. ATTENDANCE AT PRE-TRIAL CONFERENCE. At least one attorney for each party who is a member of the Indiana Bar and who will participate in the trial shall appear at the pre-trial conference. An attorney who fails to attend a pre-trial conference shall be bound by the trial date set by the Court as well as such other matters as contained in the Court's Pre-Trial Order.

E. REQUESTS FOR BENCH TRIAL. The assignment of a case for bench trial may be had by motion duly filed and accompanied by a proposed order. Said motion shall reflect an estimate of the trial time required.

F. TRIAL ASSIGNMENTS. The Court may assign a case for trial by jury on a primary and/or secondary basis. Ten [10] days prior to the scheduled trial date, an attorney whose case has been assigned for trial on a primary basis may file a Certificate of Readiness indicating the intention of proceeding to trial as scheduled. The failure to file such Certificate may result in forfeiture of the primary trial date if an attorney whose case has been assigned on a secondary basis files such Certificate and in such event the case assigned on a secondary basis shall be heard.

G. CERTIFICATE OF READINESS. If a Certificate of Readiness is filed pursuant to subsection F of this Local Rule, the Certificate shall be served on all parties in a cause and shall contain a certificate of service. The Certificate shall state:

- [1] that the cause is at issue;
- [2] that discovery has been completed or will be completed by the scheduled trial date;
and
- [3] that opposing counsel was advised of the party's intention to file the Certificate five
[5] days prior to its filing.

RULE 8 MOTIONS

A. GENERALLY. Excepting motions made during the course of a recorded proceeding, all motions shall be in writing.

B. PROPOSED ORDERS REQUIRED. Proposed orders shall accompany motions or applications in the following matters:

- [1] to enlarge or shorten time
- [2] for setting of hearing, conference or trial

- [3] for continuance
- [4] for default judgment
- [5] to compel discovery
- [6] to withdraw appearance
- [7] for dismissal
- [8] for change of venue
- [9] for restraining order, temporary injunction
- [10] for summary judgment
- [11] for such other orders, judgments or decrees as the Court may direct.

C. HEARINGS REQUIRED. Excepting motions to correct error, motions for summary judgment or other motions described in subsection F, subsection G and subsection H of this rule, all motions shall be set for hearing at the time of their filing and shall be accompanied by a separate instrument requesting a hearing and an order for the setting of a hearing date.

D. NOTICE OF MOTION AND ORDER. In lieu of the requirement of subsection C of this rule, an attorney may utilize a Notice of Motion and Order for routine matters such as a motion for continuance, motion to amend pleading, motion to shorten time, motion to add parties, motion to compel discovery and the like. The Notice of Motion shall indicate that the Court will rule on the motion and enter its Order beginning at 9:00 A.M. on the Monday which is not less than five [5] working days from the date of the Court's actual receipt of the Notice of Motion.

E. MOTION TO CORRECT ERROR. Any party may request a hearing upon a Motion to Correct Error by filing a written request therefore by separate instrument at any time before the Court has ruled upon such motion. It shall be discretionary with the Court whether a hearing shall be held on such Motion to Correct Error.

F. HEARING NOT REQUIRED. At the time of filing, the following motions shall be summarily granted or denied ex parte unless the Court, in its discretion, determines a hearing should be scheduled on any such motion and schedules such hearing;

- [1] Motion for Enlargement of Time [initial request]
- [2] Motion to Reconsider [denial of]
- [3] Motion for Change of Venue from Judge/County
- [4] Motion for Default Judgment [subject to Trial Rule 55B]
- [5] Joint Motion for Continuance
- [6] Motion to Dismiss Settled
- [7] Motion to Set Hearing/Pre-trial conference/Bench Trial
- [8] Motion to Withdraw Appearance excepting in Estate, Guardianship or Criminal matters [subject to Local Rule 2]
- [9] Such matters as permitted by statute or Trial Rule.

G. MOTIONS UNDER TRIAL RULES 12, 24, 42, and 60. Motions seeking relief under Trial Rules 12, 24, 42, and 60 shall be accompanied by a brief and proof of service upon

opposing counsel. If no brief is submitted the Motion may be summarily denied. An adverse party shall have fifteen [15] days after service of the movant's brief to file an answer brief, and the movant shall have seven [7] days after service to file a reply brief. Upon expiration of the time provided by the briefing schedule, the proponent of the motion shall file a written request to schedule the matter for hearing.

RULE 9 CONTINUANCES

A. GENERALLY. A motion for continuance of a hearing or trial shall be accompanied by an order which shall contain adequate space for insertion of a new time and date for re-scheduling purposes.

B. CONTENT OF MOTION. A motion for continuance shall set forth the scheduled date, the reason for continuance, the specific length of time the moving party desires the cause to be delayed, and reference as to whether opposing counsel agrees or disagrees to a continuance of the scheduled hearing or trial. It shall be the duty of the moving party to obtain a mutually acceptable future date if and when the motion is granted.

C. TIMING OF MOTION. No continuance shall be granted at the request of a party unless a written motion for same is filed not less than ten [10] days prior to the scheduled hearing or trial, unless it is made to appear by affidavit that the facts which are the basis of the motion did not then exist or were not then known by the moving party.

D. SANCTIONS. All delays and continuances of a cause shall be at the cost of the party causing the same, except where otherwise provided by law, and the adverse party may have such costs taxed and judgment rendered therefore upon motion duly made.

RULE 10 FINDINGS OF FACT

In all cases where findings of fact by the Court are requested or required, counsel of record shall submit to the Court proposed findings setting forth all facts claimed to have been established and the conclusions of law thereon. Such form of findings shall be submitted to the Court within such time as directed by the Court. A computer disc of the findings and conclusions shall be submitted along with the written proposals.

RULE 11 DISCOVERY

A. USE OF FORM DISCOVERY. No "form" discovery shall be served upon a party unless all discovery requests on such forms are consecutively numbered and applicable to the

case in which the same are utilized. The intent and purpose of this rule is to prohibit the use of form discovery unless applicable to the case at bar or where the nature of the case or the number of the parties makes the use of such forms necessary and appropriate.

B. ADMISSIONS FORMAT. Answers or objections to requests for admissions filed and served pursuant to Trial Rule 36 shall set forth in full the request for admissions being answered or objected to immediately preceding the answer or objection.

C. MOTIONS FOR DISCOVERY. The Court shall refuse to rule on any and all motions for discovery concerned with the production of documents or things, permission to enter upon land or other property for inspection and other purposes, for physical or mental examination, or to compel discovery provided in Trial Rules 26 through 37, unless moving counsel shall first advise the Court in writing that after personal consultation and sincere attempts to resolve differences with opposing counsel, they are unable to reach an accord.

D. LIMITATION ON INTERROGATORIES. The number of interrogatories which may be served pursuant to Trial Rule 33 shall be limited so as to require the answering party to make no more than forty [40] answers, each sub-part of an interrogatory counting as one [1] answer. Waiver of this limitation will be granted by order of the Court in cases in which such limitation would work a manifest injustice or would be impractical because of the complexity of the issues of the case. Each motion requesting waiver of this limitation shall contain as an exhibit the interrogatories which the party proposes to serve.

RULE 12

PUBLICATION OF DEPOSITIONS

The seal on depositions shall be broken and the deposition deemed published upon filing with the Court. When depositions are utilized in support of, or in opposition to, a motion for summary judgment or other matter, the pleadings and/or memoranda filed in support or opposition to such motion shall make specific reference by page and line or question number to those places in such deposition which purport to demonstrate the presence or absence of material fact.

RULE 13

JURY INSTRUCTIONS

Proposed final instructions, special or pattern, shall be submitted on letter size [8 ½ x 11] paper, double-spaced, with all designations including indications for the Court's disposition placed on the bottom three [3] inches of the instruction.

The parties shall submit a second set of proposed final instructions containing no designation of who submitted them, or other identifying references, and shall contain only the statement of law. This set of jury instructions may be sent with the jury to the jury room for use during deliberations. These instructions shall also be presented to the court on computer disc or

by e-mail in the Court's discretion.

RULE 14 PRAECIPES/TRANSCRIPTS

A. CONTENT. All praecipes and requests for transcripts shall be in writing and filed with the Clerk of the Court. Such praecipes and requests for transcripts relating to trials by jury shall not include voir dire, opening statements, and closing statements unless specifically requested.

B. COSTS. The party requesting a transcript shall obtain an estimate of the cost of the transcript from the Court Reporter and shall pay a deposit equal to one-half of the estimated cost of the transcript before the transcription process is undertaken by the Court Reporter. The remaining estimated cost of the transcript shall be paid upon notification by the Court Reporter to the requesting party that one-half of the transcript has been completed. The actual total cost of the transcript shall be paid in full before the transcript is released to the requesting party.

C. COURT REPORTER RULE (Pursuant to Adm. Rule 15) Definitions. The following definitions shall apply under this local rule:

- (1) *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a Court Reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing, and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; *i.e.* Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) *Court* means the particular court for which the Court Reporter performs services. Court may also mean all of the courts in Floyd County.
- (11) *County indigent transcript* means a transcript that is paid for from county funds and is for

the use on behalf of a litigant who has been declared indigent by a court.

(12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Salaries and Per Page Fees.

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the Court Reporter is to be compensated for gap and overtime hours; *i.e.* monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a Court Reporter may charge for the preparation of a county indigent transcript shall be the amount from time to time approved by the Supreme Court and the County Council. The Court Reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(3) The maximum per page fee a Court Reporter may charge for the preparation of a state indigent transcript shall be the amount from time to time approved by the Supreme Court and the County Council.

(4) The maximum per page fee a Court Reporter may charge for the preparation of a private transcript shall be the amount from time to time approved by the Supreme Court and the County Council.

(5) Each Court Reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Section Three. Private Practice.

(1) If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing a deposition transcript, and the Court Reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the Court Reporter shall enter into a written agreement which must, at a minimum, designate the following:

(a) The reasonable market rate for the use of equipment, work space and supplies.

(b) The method by which records are to be kept for the use of equipment, work space and supplies.

(c) The method by which the Court Report is to reimburse the court for the use of the equipment, work space and supplies.

(2) If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice shall be conducted outside of regular working hours.

(3) *Disk as Official Record.* Upon the filing of a written request or praecipe for transcript, the Court Reporter shall transcribe any court proceeding requested and produce an original paper transcript along with an electronically formatted transcript. Multiple disks containing the electronically formatted transcript shall be prepared and designated as "Original Transcript," "Court Reporter's Copy" and "Court's Copy." Each disk shall be labeled to identify the case number, the names of the parties, the date completed, the Court Reporter's name, and the disk number if more than one disk is required for a complete transcript. The court's copy of the electronic transcript shall become the official record of the court proceeding, in lieu of a paper copy of the transcript, and shall be retained in the court where said proceeding was held. The Court Reporter's copy shall be retained by the Court Reporter. The original paper transcript along with the disk designated as the original transcript shall be forwarded to the Clerk if the transcript was prepared for purposes of appeal. If the transcript was not prepared for purposes of appeal, the original paper transcript shall be delivered to the requested party.

RULE 15 EX PARTE ORDERS

Ex parte proceedings are highly disfavored. In civil cases the Court may enter orders, ex parte, in those matters as set forth in Local Rule 8 (F).

Upon motion of any party adversely affected by any ex parte proceeding not in conformity with this rule, the Court, after notice and opportunity to be heard, may direct that the party or attorney seeking an ex parte order shall pay to the adversely affected party the reasonable attorneys fees associated with the opposition to the ex parte order.

RULE 16 SANCTIONS

A. COURT ACTION. When a party or counsel for a party fails to comply with any of these Local Rules, the Court, after advising the party of the noncompliance, may direct the Clerk of the Court to refuse to accept the pleadings or papers to be filed, or, if inadvertently accepted for filing, direct that such pleadings or papers be stricken from the record.

B. COSTS. In addition to the foregoing, the Court may order the party or counsel for the party failing to comply with these Local Rules to pay reasonable expenses, including attorney fees, caused by the failure.

RULE 17 APPOINTMENT OF SPECIAL JUDGES

A. Selection of Assignment Judge. On or before October 1st of each year, the Judges of the Circuit, Superior and County Courts of Floyd County shall meet with the presiding judges

of Administrative District 14 for the purpose of selecting a judge designated as the assignment judge who shall serve the Administrative District for a period of twelve (12) months.

B. Section H Appointments. In the event it becomes necessary to appoint a special judge under Section H of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall send notice of the need of the appointment of a special judge to the Administrative District's assignment judge who shall then make such assignment within five (5) days of receiving said notice.

C. Method of Assignment. The Administrative District's assignment judge shall select special judges from a roster of the available judges in the Administrative District. The assignments shall be in a sequential order beginning with the name of the judge following the last judge so assigned. If, however, because of travel considerations a judge has been passed over or if a judge is otherwise disqualified to hear a particular case, that judge shall be deemed to be the next in sequence until assigned a case. The assignment judge shall maintain a record of all assignments and shall issue a summary report of the assignments on a quarterly basis.

D. Travel Considerations. In making the selection of a special judge, the assignment judge shall consider that travel of more than forty (40) miles in one direction is not an effective use of judicial resources.

E. Roster of Available Judges. The roster of available judges in Administrative District 14 shall be maintained by Court designation in the following sequential order and shall include senior judges as available:

- | | |
|-----------------------|--------------------------|
| (1) Clark Circuit | (10) Harrison Superior |
| (2) Clark Superior #1 | (11) Orange Circuit |
| (3) Clark Superior #2 | (12) Orange County |
| (4) Clark Superior #3 | (13) Scott Circuit |
| (5) Crawford Circuit | (14) Scott Superior |
| (6) Floyd Circuit | (15) Washington Circuit |
| (7) Floyd Superior | (16) Washington Superior |
| (8) Floyd County | (17) Senior Judges |
| (9) Harrison Circuit | |

F. Appointment Order. Upon selecting a special judge, the assignment judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending who shall then sign and enter the Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.

G. Acceptance of Jurisdiction. The Order of Appointment, when entered by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required.

I. Implementation of Rule. In the event a selected judge does not accept an appointment to serve as a special judge under the provisions of Section (D), (E) or (F) of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.

J. Certification To Supreme Court. If, under the provisions of this Rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special judge.

If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special judge. Under such circumstance this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special judge.

RULE 18

ASSIGNMENT OF CASES TO EQUALIZE WORKLOAD BETWEEN COURTS

A. Assignment. The judges of the Circuit, Superior and County Courts shall meet on or before October 1 of each year to assign cases to equalize the workload between the courts. This shall be accomplished by designating the cases to be heard by the magistrate from each court on a weighted basis per case that will result in an equal workload between the judges and the magistrate. Different numbers of cases may be assigned from each court per the caseload statistics received each year to accomplish this goal. Due consideration will be given to prosecutorial practices regarding the manner in which criminal cases are handled in the Circuit, Superior and County Courts such that an exact equalization numerically may not occur.

B. Transfer. Transfer between the Floyd Circuit Court and the Floyd Superior Court shall be accomplished pursuant to IC 33-5-18.1-13&14, which allows the judges to transfer cases between courts with mutual consent and to sit on any case in either court with mutual consent.

RULE 19

CONTEMPT/RULE TO SHOW CAUSE/BODY ATTACHMENT

A. Contempt. Upon failure of a party/person to appear as ordered for any Court proceeding a contempt citation may be filed as to said party/person.

B. Body Attachment. Body Attachment shall be requested and issued only when the party/person previously ordered to appear for a Court proceeding was personally served with notice of a contempt hearing pursuant to I.C. 34-47-4-1.

C. Expiration and Recall of Body Attachments.

(1) **Expiration.** Body Attachments expire one year after issuance.

(2) **Recall.** If during the pendency of a Body Attachment, a party desires to recall said Body Attachment, said party shall file a written notice to recall Body Attachment forthwith stating the reason for the recall.

APPENDIX

Local Civil Forms

- 1 **Body Attachment** - (local Rule 19)

IN THE FLOYD CIRCUIT/SUPERIOR/COUNTY COURT
STATE OF INDIANA

PLAINTIFF/PETITIONER

VS

CAUSE NO: _____

DEFENDANT/RESPONDENT

WRIT OF BODY ATTACHMENT

Expiration Date: _____

TO THE SHERIFF OF FLOYD COUNTY, STATE OF INDIANA:

You are hereby commanded to attach the body of:

NAME: _____

ADDRESS: _____

DOB: _____

SS#: _____

pursuant to IC 34-47-4-2, and forthwith bring him/her before the Judge of the Floyd Circuit/Superior Court to answer for a Contempt of Court for: [state reason].

BAIL: \$_____ COURT CASH OR SURETY

OR

ESCROW: \$_____ DEPOSITED WITH THE FLOYD COUNTY CLERK
[IF CHILD SUPPORT ARREARAGE]

SO ORDERED this _____ day of _____, 200_.

JUDGE _____
FLOYD CIRCUIT/SUPERIOR/COUNTY COURT